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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,422	11/27/2001	Anne Louise Cordia	U 013734-4	2131
140	7590	10/21/2005	EXAMINER	
LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023			RAMIREZ, RAMON O	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 10/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/995,422

Applicant(s)

CORDIA, ANNE LOUISE

Examiner

RAMON O. RAMIREZ

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 45,46 and 48-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49 and 79 is/are allowed.
- 6) ☒ Claim(s) 45,46,48,51-55,63-68 and 70-78 is/are rejected.
- 7) ☒ Claim(s) 50,56-62,69 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Detailed Action***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Oct 3, 2005 has been entered.

This is Office Action corresponding to the CPA. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

Claims 45, 46, 51-55, 63, 64-68, 70-75, 76, 77 and 78 are under 35 U.S.C. 103(a) as being unpatentable over Schulze (Pat No 1,386,078).

The patent to Schulze shows an accessory for a container (plate) comprising first and second clamping members, the first clamping member (2) comprising a plurality of extending portions (2, 2) defining first and second clamping surfaces (areas contacting the plate), the second clamping member (1) defining a third clamping surface (area contacting the plate); the third clamping surface disposed between the first and second clamping surfaces (Figs 1 and 3), with each of the extending portions extending away from the vertical axis of the second clamping member. The second clamping member

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comprising a holder having third (6) and fourth (8) clamping surfaces holding an object.

As to the display means recited for example in claim 63, any of the flat surfaces shown by Schulze in Figs 1 and 3, can be considered as a means for displaying information since they are capable of receiving written information, directly (writing on) or indirectly (like a card). As to claim 53, Fig 2 of Schulze shows the first and second clamping members forming a U-shaped defining a space for receiving the container. The material from which the device is made is considered an obvious matter of engineering having no patentable significance. The deformation of the members of the instant invention is inherently to the material from which the device is made.

#### ***Allowable Subject Matter***

Claims 50, 56-62 and 69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 49 and 79 are allowed.

#### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive. Applicant comments why Schulze is applied as a 103 reference. The reason is that the reference may not be "elastically deformable"; but this limitation is inherent to the material from which a device is made, which is considered to be a matter of engineering choice.

The examiner agrees that the reference does not teach the clamping surfaces spring mounted with respect to each other; this limitation has been considered to be allowed. However, the examiner believes that the first clamping member (with its clamping surfaces) is spring mounted with respect to the second clamping member. Note that Schulze's specification states that the invention is spring clamp.

### *Conclusion*

This is a CPA of Application No. 090995422. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

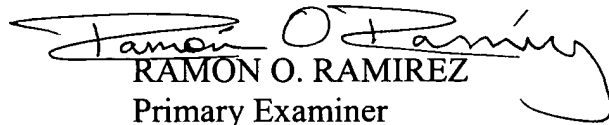
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (571) 272-6821. The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT OLSZEWSKI can be reached on (571) 272-6788.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RAMON O. RAMIREZ  
Primary Examiner  
Art Unit 3632

ROR  
October 17, 2005